

# **EXHIBIT**

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March 4, 2008

**VIA FACSIMILE & U.S. MAIL**

Geoffrey L. Smith, Esq.  
McKool Smith  
300 West 6th Street, Suite 1700  
Austin, TX 78701

Re: *Subpoena in Visto Corporation v. Research In Motion Limited and Research In Motion Corporation, No. 2-06-CV-181 (E.D. Tex)*

Dear Mr. Smith:

It was a pleasure speaking with you on Friday. And thank you again for agreeing to extend our time to respond to the subpoena until March 10, 2008. I am writing now to confirm the details of our conversation.

You told us that the patents at issue in the *Visto v. RIM* litigation teach a system of synchronizing various data components of a user's account (email, calendar, etc.) between a server behind a firewall and handheld devices (e.g., smart phones). And it is your belief that RIM has software and/or hardware that synchronizes these data components between Google servers and RIM's BlackBerry handheld devices, and that Google may have information about this software and/or hardware.

During our conversation, we also discussed each of the seven document requests in the subpoena. The following is our understanding of what Visto is hoping to receive from Google with respect to each of the requests.

Request No. 1: Visto is not concerned about the specific location of Google's servers, but only whether some of the servers are located within the United States.

Request No. 2: Visto wants to know the total number of Google users that synchronize their data with RIM devices. As an example, you thought there might be a per customer synchronizing fee agreement between RIM and Google. As we explained, however, no such agreement exists.

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Request No. 3: Visto wants design documents describing the software and/or hardware interface between RIM and Google, if any.

Request No. 4: Visto would like documents relating to software and/or hardware provided by RIM for instillation at Google, if any, but is not interested in RIM devices used by Google employees.

Requests Nos. 5-6: We could not understand from the subpoena what you meant by the term "protocol," as used in Requests Nos. 5-6, and you explained that this was a reference to email protocols such as Internet Message Access Protocol (IMAP) and Post Office Protocol (POP).

Request No. 7: You described this request as a "catch-all" request meant to capture any documents evidencing system configurations, if any, that allow Google servers to communicate with RIM's BlackBerry Internet Service (or BlackBerry Web Client), such as a firewall port.

Finally, you told us that you requested these same documents from RIM, but have not received a single responsive document. Nonetheless, you have neither moved to compel production of these documents from RIM nor noticed a 30(b)(6) deposition of RIM on these topics.

I will call you on March 5, 2008 to further discuss the subpoena and Google's response. In the meantime, if you have any questions or concerns, please do not hesitate to call me.

Very truly yours,

A handwritten signature in black ink that reads "Khari J. Tillery" followed by a stylized flourish or initials.

Khari J. Tillery

KJT/dbm

cc: Michael Page, Esq.  
Ashok Ramani, Esq.

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**FACSIMILE TRANSMISSION COVER SHEET**

March 4, 2008

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From	Telephone	Code
Khari J. Tillery	(415) 773-6621	0001/DBM

Re *Third Party Subpoena in Visto Corporation v. Research In Motion Limited and Research In Motion Corporation, No. 2-06-CV-181 (E.D. Tex)*

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